

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SINGH MANAGEMENT CO., LLC,
SINGH HOMES, LLC;
SINGH DEVELOPMENT, LLC;
and
SINGH CONSTRUCTION II, LLC,

Plaintiffs,

v.

SINGH MICHIGAN HOMES LLC;
SINGH MICHIGAN DEVELOPMENT CO.,
INC.;
SINGH MICHIGAN BUILDING CO., INC.;
SINGH MICHIGAN CONSTRUCTION LLC
and
DARSHAN SINGH GREWAL,

Defendants.

Case No. 2:21-cv-12188-BAF-EAS

Hon. Bernard A. Friedman

Magistrate Judge: Elizabeth A. Stafford

DEFENDANTS' MOTION TO STRIKE AND ADJOURN

Defendants Singh Michigan Homes LLC, Singh Michigan Development Co., Inc., Singh Michigan Building Co., Inc., Singh Michigan Construction LLC, and Darshan Singh Grewal (collectively “Defendants”), by and through their undersigned counsel, hereby move pursuant to Fed. R. Civ. P. 12(f)(2) and E.D. Mich. LR 7.1(e)(1)(C) to strike *Plaintiffs’ Reply in Support of Their Motion for Contempt and to Modify Existing Injunction or in the Alternative for a Preliminary Injunction* [Dkt #22] and in support of their Motion, state as follows:

1. Plaintiffs filed a *Motion for Contempt and to Modify Existing Injunction or in the Alternative for a Preliminary Injunction* on September 20, 2021 (“Motion”).
2. On October 7, 2021 the Court noticed a hearing on the above Motion for October 20, 2021. [Dkt #13.]
3. On October 8, 2021 the Court re-noticed the hearing on the above Motion for October 21, 2021. [Dkt #14.]
4. Later on the day of October 8, 2021, Defendants filed a notice of Appearance, together with a Motion to Dismiss. [Dkt #15.]
5. On October 11, 2021, Defendants filed their *Opposition to Plaintiffs’ Motion for Contempt and to Modify Existing Injunction or in the Alternative for a Preliminary Injunction*. [Dkt. #21.].
6. Plaintiffs’ Reply Brief to the above Motion would be due at latest, on October 18, 2021, which is seven (7) days from the time Defendants’ filed their Response

Brief, and at least three (3) days prior to the noticed hearing date of October 21. *See* E.D. Mich. LR 7.1(e)(1)(C).

7. Presumably, the Court recognized the same timelines so as to ensure Plaintiff's ability to file a Reply Brief, when it renoticed the Motion on October 8.

8. Plaintiffs filed their Reply Brief one day late, on the evening of October 19, 2021 at approximately 6:00 PM. [Dkt # 22.] Undersigned counsel's first opportunity to review the Brief was today (October 20) one day prior to the noticed hearing.

9. Plaintiffs did not seek leave of the Court to file their Reply on an untimely basis, nor did they request consent to do so from Defendants. Had Plaintiffs made such a request of Defendants, Defendants would have considered it, if Plaintiffs stipulated that the hearing in the matter (scheduled only two days later) be adjourned such that Defendants could have ample time to review the Reply in preparation for the hearing, and/or seek leave of the Court to file a Sur-Reply Brief.

10. Defendants have been prejudiced by the late filing of the late Reply Brief, having only today, October 20, 2021 to review it in advance of the hearing scheduled on the Motion, tomorrow, October 21, 2021. As such, Defendants seek an Order striking this untimely Reply Brief. *See Cincinnati Ins. Co. v. Becker Ulman Const. Inc.*, No. 12-13185, 2013 WL 5797614, at *2 (E.D. Mich. Oct. 28, 2013) (where the court struck an untimely response).

11. Pursuant to E.D. Mich. LR 7.1, Defendants' counsel sought, but did not obtain concurrence from Plaintiffs' counsel with this Motion. However, at 4:29 PM today (October 20) Plaintiffs' counsel did indicate that Plaintiff would be filing its Response to Defendants' Motion to Dismiss "later tonight", *i.e.* the night before tomorrow's hearing. In the same communication, Plaintiffs further confirmed that the arguments set forth in Defendants' Motion to Dismiss are related to the arguments surrounding the instant Motion scheduled for hearing tomorrow. See **Exhibit A**. That is to say, these two motions are inextricably intertwined, and undoubtedly, not fully briefed.

12. Given that Defendants' briefing on the instant Motion scheduled for hearing tomorrow (October 21) directly references and relies on the arguments and authorities set forth in the Motion to Dismiss, and given further that Defendants will not have had the opportunity to file their Reply Brief to Plaintiff's Response to the Motion to Dismiss in time for tomorrow's hearing, Defendants submit that the Court will be informed of only Plaintiffs' full positions in this case. Defendants will be dually prejudiced in proceeding to the hearing tomorrow without the opportunity to fully brief this matter.

WHEREFORE, Defendants respectfully request that this Court strike Plaintiffs' Reply Brief [Dkt #22] and/or grant leave for Defendants to file a Sur-Reply to same. Defendants further request that the Court adjourn the hearing

scheduled for tomorrow, October 21, 2020, to enable Defendants adequate ability to file their Reply to the forthcoming Response to Motion to Dismiss, for the Court's consideration in advance of the hearing.

DATED this 20th day of October, 2021.

Respectfully submitted,

DICKINSON WRIGHT PLLC

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**DEFENDANTS' BRIEF IN SUPPORT OF THEIR
MOTION TO STRIKE AND ADJOURN**

For their Brief in Support of Motion to Strike and Adjourn, Defendants rely on their attached Motion, Fed. R. Civ. P. 12(f)(2), ED Mich L.R. 7.1(e)(1)(C) and attendant case law.

Respectfully submitted,

DICKINSON WRIGHT PLLC

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Dated: October 20, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2021, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, along with email delivery of such filing to all counsel of record.

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